UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IV
345 Courtland Street
Atlanta, Georgia 30365

[JUL 12, 1982]

[JULY 15, 1982 RECEIVED AIR POLLUTION]

REF: 4AW-AM

TO ALL STATE AND LOCAL AGENCY DIRECTORS:

During the recent mid-year audits of the State air agencies, it was suggested that EPA Region IV prepare a quarterly summary of items of interest to State and local new source review staff, and distribute it to air pollution control agencies in Region IV. Such a summary would include recent policy decisions, interpretations of EPA regulations, BACT determinations of special interest, and any other items which would be of interest to new source review personnel.

This letter is the first such summary. Future summaries will be sent to you approximately each quarter. If you have any questions regarding this letter, please notify Roger Pfaff directly.

I. CMA Agreement:

When EPA promulgated changes to the EPA PSD and nonattainment regulations (8/7/80) in response to the Alabama Power court decision, it was sued by several industrial groups. The suit is referred to as the CMA suit (Chemical Manufacturers Association). On February 22, 1980, EPA and the litigants reached an agreement on all the issues. Under separate cover, each state agency is be-

ing sent a copy of the agreement. EPA agreed to propose two sets of revisions to the EPA new source review regulations. Some of the major proposals will be:

1) No fugitive emissions will count in determining applicability to the regulation.

2) Limitations do not have to be federally enforceable to count as restrictions.

3) The netting baseline for modifications will be either the actual emissions (the present rule) or potential emissions, whichever is more favorable to the source, except that if potential is used, it must be the hourly potential, not the yearly potential. This change would allow a source whose potential is higher than is actual to build new units and increase actual emissions without being subject.

4) For nonattainment review, the offset baseline will be either actual or potential emissions, as described above, so long as RFP is met.

II. Capable of Accommodating Definition

Fuel switches at boilers are exempted from PSD if the source (i.e., plant) is "capable of accommodating" the new fuel. EPA's policy regarding whether an individual boiler is capable of accommodating a fuel is somewhat well established, but whether an entire plant is capable of accommodating is open to interpretation. For example, if an oil fired boiler can burn coal, but no coal handling equipment is in place, is the entire plant capable of accommodating coal? Region IV has requested an official policy determination on this issue from EPA Headquarters. Based on a previous policy determination, un-

der the 1978 PSD regulations, one could conclude that the increased emissions from a coal-accommadative boiler would not trigger review, but if the increased emissions from the coal handling equipment were significant (25TPY TSP at a major source) the coal handling equipment would be subject to PSD. (See PSD determination 84 in EPA's "Summary of PSD Determinations" from Edward E. Reich).

As soon as we receive an updated answer on this question, we will let you know.

III. BACT/LAER Clearinghouse

You may be aware that EPA's Office of Air Quality Planning and Standards has been reworking the format of the BACT/LAER Clearinghouse to provide for a computerized output. That project is now complete, and each participating State and Local Agency should have received the first copy of the computerized Clearinghouse report. Success of future issues depends upon your submittal of future determinations, so please make a continued effort to keep the Clearinghouse up-to-date.

IV. Questions and Answers

Question: Do 52.21(k) and (o) apply to pollutants emitted in less than significant amounts?

Answer: Yes.

Question: Some pollutants were not regulated by PSD before March 1978. In counting contemporaneous increases as decreases, do emissions before that date count?

Answer: Yes. Any pollutant now regulated by the Act is treated equally, even if the pollutant was only recently regulated.

Question: A source to be modified will be subject to PSD due to a significant increase in SO_2 emissions. After the modification there will be no increase in the hourly particulate emissions. The source presently operates at 4,000 hours per year. If the PSD permit would allow 7,000 hours per year, would this be judged a significant increase in particulate emissions, and cause the source to be subject to PSD for particulate?

Answer: No. Since the modification does not cause any increase in emissions, no increase in annual emissions should be calculated.

Question: A source obtained a PSD permit for a new oil-fired boiler in 1977. The boiler is operating now. The owner wishes to convert the boiler to coal. There will be less than a significant increase in actual emissions of each pollutant. Is the conversion subject to PSD?

Answer: No. The conversion would be treated just like a replacement. The fact that the boiler is subject to PSD permit is presently immaterial. But, the new emission limits must be made federally enforceable and represent a less than significant increase over present actual emissions. Also, do not overlook NO_x, CO, lead, Hg, Be.

Question: An existing major source replaces a kiln with an identical new kiln. At the same time, a new boiler is added. If the new kiln is proposed to emit the same rates of pollutants as the existing kiln, but the boiler emits significant amounts of those pollutants, is the new kiln subject to BACT?

Answer: Yes. If the actions are taken at the same time, BACT would apply to both units, since a net increase would result at each unit. [52.21(j)(3)]

Sincerely yours,

[/s/ for]
James T. Wilburn, Chief
Air Management Branch
Air & Waste Management Division